

Article - Real Property

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§14–305.

(a) (1) When a petition to establish a broker's lien is filed, the court shall review the pleadings and documents on file and may require the petitioner to supplement or explain any matters set forth in the petition, pleadings, or documents.

(2) If the court determines that the lien should attach, it shall pass an order that:

(i) Directs the owner to show cause within 15 days from the date of service on the owner of a copy of the order, together with copies of the pleadings and documents on file, why a broker's lien on the lien property and for the amount described in the petition should not attach; and

(ii) Informs the owner that:

1. The owner may appear at the time stated in the order and present evidence on the owner's behalf or may file a counter-affidavit at or before that time; and

2. If the owner fails to appear and present evidence or file a counter-affidavit, the facts in the affidavit supporting the petitioner's claim shall be deemed admitted and a broker's lien may attach to the lien property as described in the petition.

(3) (i) If the owner desires to controvert any statement of fact contained in the affidavit supporting the petitioner's claim, the owner shall file an affidavit in support of the owner's answer showing cause.

(ii) The failure of the owner to file an opposing affidavit shall constitute an admission for the purposes of the proceedings of all statements of facts in the affidavit supporting the petitioner's claim, but shall not constitute an admission that a broker's petition or affidavit in support of the broker's petition is legally sufficient.

(4) After the filing of an answer showing cause why a broker's lien should not be established in the amount claimed, the court shall schedule a hearing at the earliest possible time.

(b) (1) (i) If the pleadings, affidavits, and admissions on file and the evidence, if any, show that there is no genuine dispute as to any material fact and that the lien should attach as a matter of law, then the court shall issue a final order establishing the lien for want of any cause shown to the contrary.

(ii) If it appears that there is no genuine dispute as to any portion of the broker's lien claim, then the validity of that portion shall be established and the action shall proceed only on the disputed amount of the broker's lien claim.

(2) If the pleadings, affidavits, and admissions on file and the evidence, if any, show that there is no genuine dispute as to any material fact and that the petitioner failed to establish the broker's right to a broker's lien as a matter of law, then the court shall issue a final order denying the lien for cause shown.

(3) If the court determines from the pleadings, affidavits, and admissions on file and the evidence, if any, that the broker's lien should not attach, or should not attach in the amount claimed, as a matter of law, by any final order, but that there is probable cause to believe that the petitioner is entitled to a broker's lien, the court shall enter an interlocutory order which:

- (i) Establishes the broker's lien;
- (ii) Describes the lien property to which the broker's lien attaches;
- (iii) States the amount of the claim for which probable cause is found;
- (iv) Specifies the amount of the bond that the owner may file to have the lien property released from the broker's lien;
- (v) May require the claimant to file a bond in an amount that the court believes sufficient for damages, including reasonable attorney's fees; and
- (vi) Assigns a date for the trial of all matters at issue in the action, which shall be within a period of 6 months.

(4) The owner or any other person interested in the lien property may move to have the broker's lien established by the interlocutory order modified or dissolved at any time.

(c) (1) The amount of and the surety on any bond shall be determined and approved in accordance with the Maryland Rules except as stated in this subtitle.

(2) (i) If the petitioner, or any other person interested in the lien property, is not satisfied with the sufficiency of a surety or with the amount of any bond given, the petitioner, or any other person interested in the lien property may, at any time before entry of a final decree, apply to the court for an order requiring an additional bond.

(ii) After notice to the other parties involved, the court may order the giving of an additional bond as it may deem proper.

(3) Instead of filing a bond, any party may deposit money in an amount equal to the amount of the bond which would otherwise be required, in accordance with the Maryland Rules.

(d) Until a final order is entered either establishing or denying the broker's lien, the action shall proceed to trial on all matters at issue, as in the case of any other proceedings in equity.

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